

› LAW ON COURT DEADLINES

April, 2020

1. The Chilean Supreme Court is vested with the powers to order the suspension of hearings whenever they cannot be carried out because no basic guarantees can be offered for due process because of the restrictions imposed by the Government in the context of the constitutional exception state, such as the limitations to freedom of movement or to the entry into or exit from certain territories, or due to the consequences of the sanitary emergency.

To this end, the Court ought to state, in an express and detailed manner, the terms and conditions under which this suspension will operate, which can be applied separately, per judicature and different jurisdictional territories. The latter, as follows:

- a) It may order the suspension of hearings in Ordinary Courts of Law, Family Law Courts, Labor Courts, Labor and Social Security Debt Collection Courts, and exceptional one-member Courts, save for those audiences requiring the urgent intervention of a court.
- b) It may order the suspension of hearings in Criminal Courts, with the exception of those aimed at overseeing the apprehension of suspects, revision of precautionary measures for preventive imprisonment or interim detention, for the revision or substitution of penalties, enforcement of sentences for minors whenever interim detention is under discussion, the fulfilment of safety measures, and all those requiring the urgent intervention of a court of law.
- c) It may order the suspension of hearings and review of cases before the upper courts of justice, with the same exceptions already mentioned.

Hearings shall be rescheduled for the nearest possible date, after the end of the suspension instructed by the Supreme Court.

This provision prevails over any other legal provisions setting timeframes for a hearing to be carried out.

Hearings that cannot be suspended may be carried out long-distance, something that may be requested by the parties thereto.

2. Special courts that are not part of the Judiciary, and arbitral tribunals (both ad hoc and institutional) may suspend any hearing, except for those requiring urgent intervention.

They may proceed remotely for those hearings that cannot be suspended; a matter that can be requested by the parties involved.



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- 3.** The ordinary courts of law, and the special ones, may not instruct any errands or judicial actions which performance could cause defenselessness to either of the parties or participants, as a result of the restrictions imposed by the Government in the context of the State of Constitutional Exception or due to the consequences of the sanitary emergency.

Defenselessness exists in situations in which rules for due process are not fulfilled. This does not apply in the case of errands that need be carried out urgently or without delay and errands that shall not be postponed, the court having to adopt the necessary measures for the due administration of justice.

- 4.** Whenever, as a result of the restrictions imposed by the Government or due to the consequences of the sanitary emergency, one of the parties involved is prevented from meeting the deadlines set forth for the performance of errands, acts or for the exercise of rights and actions, it may claim the existence of a hindrance within the 10 days following that deadline.

The court may resolve with or without the intervention of the parties and shall weight the evidence as per the rules of reasoned judgment, notwithstanding the resources available against such determination.

- 5.** In the procedures before Criminal Courts, participants prevented from meeting deadlines may formulate a petition under article 17 of Chilean Criminal Procedural Code, based on any impediment triggered by the public disaster or the sanitary emergency.

- 6.** In judicial procedures followed before ordinary, special or arbitral courts, evidentiary terms shall be suspended, both if they are ongoing at this law's enactment, or if they begin during the validity of the constitutional exception state of catastrophe. Suspension shall last until expiry of the 10 days following the end of the state of constitutional exception.

- 7.** In criminal matters, deadlines set forth in articles 248, 281, 392, 393 and 402 of the Criminal Procedural Code and those consecrated in articles 424 to 549 of the Criminal Procedure Code, shall be suspended.

In the procedures contemplated in those codes, pending deadlines regarding judicial actions and errands will be postponed from the day of enactment of this law until 10 business days after the end of the state of constitutional exception.

Notwithstanding the foregoing, the court and the parties or participants thereto shall be compelled to adopt all applicable and necessary measures for the timely performance of those errands and actions required urgently or without delay.

Oral trial hearings may be rescheduled for the nearest possible date after the end of the foregoing state of constitutional exception. Likewise, courts may suspend hearings of ongoing oral trials, due to any impediment triggered by the public disaster or the sanitary emergency, without this suspension giving way to the nullity of the procedure, nor entailing the trial starting over.

- 8.** While the state of constitutional exception is in place, the statute of limitations shall be deemed interrupted for actions through simply filing the claim, under the condition that the latter is not rendered inadmissible and for it to be validly served within the 50 business days following the date on which the foregoing state of constitutional exception ends, or within the 30 business days following the date on which the claim had been decided, whichever is last. This shall not be applicable to the exercise of criminal actions.

As for the exercise of labor actions and those that fall within the jurisdiction of local city courts for transit and municipal matters, the timeframes for statute of limitations and expiry shall be deemed extended, up until 50 business days from the date on which the state of constitutional exception for catastrophe ends.

Likewise, during the validity of the state of constitutional exception for catastrophe, filing of claims may be done without the need to evidence fulfillment of the mandatory previous mediation, or any other demand which fulfillment may turn hard to achieve, given the restrictions imposed by the Government or the

- 9.** Parties may also request the suspension of hearings before collegial courts on account of any impediment triggered by the public disaster or by the sanitary emergency.

In criminal cases in which someone's freedom is prevented, suspension may only be requested when the impediment absolutely hinders a party from exercising its rights. In such cases, proceeding remotely shall be authorized.

The latter shall not be applicable to the processing of remedies for constitutional protection and habeas corpus, nor in causes requiring the urgent intervention of a court, in which cases the proceeding may be carried out remotely.

- 10.** In those cases in which the decision is to proceed remotely, the court shall take every necessary measure to ensure that the conditions to fulfill the procedure's judicial guarantees are met.